

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

**FILED**  
IN CLERK'S OFFICE  
U.S. DISTRICT COURT E.D.N.Y.  
★ JUN 26 2013 ★

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DR. GERALD FINKEL, as Chairman of the Joint  
Industry Board of the Electrical Industry,

BROOKLYN OFFICE

Plaintiff,

NOT FOR PUBLICATION  
**MEMORANDUM & ORDER**  
12-CV-00925 (CBA) (RLM)

-against-

ACT SECURITIES & ELECTRIC, INC.,

Defendant.

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AMON, Chief United States District Judge.

On February 27, 2012, Dr. Gerald Finkel filed this action against defendant Act Securities & Electric, Inc. He alleges principally that defendant Act Securities & Electric, Inc. ("Act Securities") failed to make required contributions to various employee benefit plans and miscellaneous funds, in violation of the Employee Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. § 1145 et seq., and the Labor Management Relations Act ("LMRA"), 29 U.S.C. § 185. On May 23, 2012, the Clerk of Court entered default against Act Securities. (DE #5.) Finkel moved for default judgment on June 29, 2012 (DE #8), and the Court referred the matter to Magistrate Judge Roanne L. Mann for report and recommendation. Currently before the Court is Magistrate Judge Mann's Report and Recommendation (R&R) issued on April 12, 2013. (DE #15.)

No party has objected to the R&R, and the time for doing so has passed. When deciding whether to adopt a R&R, a district court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). To accept those portions of the R&R to which no timely objection has been made, "a district court need only satisfy itself that there is no clear error on the face of the record." Jarvis v. N. Am.

Globex Fund, L.P., 823 F. Supp. 2d 161, 163 (E.D.N.Y. 2011) (internal quotation marks and citation omitted). The Court has reviewed the record and, finding no clear error, hereby adopts Magistrate Judge Mann's R&R as the opinion of the Court.<sup>1</sup>

Accordingly, the Court awards Finkel the following: (1) \$8,029.85 in unpaid contributions; (2) interest on the unpaid contributions in the amount of \$88.24, with a per diem interest of \$0.62 from June 29, 2012 until the earlier date of payment or entry of judgment; (3) liquidated damages in the amount of \$1,539.02; (4) \$3,390 in attorney's fees; and (5) \$437.50 in expenses. The Court, however, denies Finkel's request for injunctive relief and declines to award underpaid contributions or prejudgment interest on contributions that were paid late but prior to the commencement of this action. The Clerk of Court is directed to terminate all pending motions, enter judgment and close the case.

SO ORDERED.

Dated: Brooklyn, New York  
June 26, 2013

s/Carol Bagley Amon -

Carol Bagley Amon  
Chief United States District Judge

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<sup>1</sup> The R&R references page 19 of the 2010 collective bargaining agreement ("CBA") and page 19 of the 2007 CBA at various points. These pages can be found at DE #9-1 at 84 and DE #9-1 at 17, respectively.